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No. 30.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

**An Act requiring Mortgages of Personal
Property in Upper Canada to be fyled.**

Received and Read a first time, Monday, 29th
January, 1849.

Second Reading, Wednesday, 21st February, 1849.

Mr. MORRISON.

PRINTED BY LOVELL AND GIBSON.

BILL.

An Act requiring Mortgages of Personal Property in Upper Canada to be fyled.

BE it enacted, &c.

And it is hereby enacted by the authority of the same, That every Mortgage or conveyance intended to operate as a Mortgage of Goods and Chattels made after the passing of this Act, in Upper Canada, which shall not be accompanied by an immediate delivery and be followed by an actual and continued change of possession of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith, unless the mortgage or a true copy thereof shall be fyled as directed in the succeeding section of this Act.

Mortgages of personals in Upper Canada made after the passing of this Act, to be void unless fyled as herein directed.

II. And be it enacted, That the instruments mentioned in the preceding section shall be fyled in the Office of the Clerk of the County Court of the County where the mortgagor therein, if a resident in Upper Canada, shall reside at the time of the execution thereof, and if not a resident, then in the Office of the Clerk of the County Court of the County where the property so mortgaged shall be at the time of the execution of such instrument; and such Clerks are hereby required to fyle all such instruments aforesaid presented to them respectively for that purpose, and to endorse thereon the time of receiving the same, and shall deposit the same in their respective offices to be kept there for the inspection of all persons interested.

Mortgages to be fyled in office of Clerk of County Court.

Copy of mortgage to be fyled again one year after first fyling.

III. And be it enacted, That every mortgage or copy thereof fyled in pursuance of this Act, shall cease to be valid as against the creditors of the person making the same or against subsequent purchasers or mortgagees in good faith after the expiration of one year from the fyling thereof, unless within thirty days next preceding the expiration of the said term of one year, a true copy of such mortgage, together with a statement exhibiting the interest of the mortgagee in the property thereby claimed by virtue thereof, shall be again fyled in the Office of the Clerk of the County Court of the County where the mortgagee shall then reside. 5

Copies of mortgages fyled, with certificate of Clerk, to be received as evidence of such fyling.

IV. And be it enacted, That a copy of any such original instrument or of any copy thereof so fyled as aforesaid, including any statement made in pursuance of this Act, certified by the Clerk in whose office the same shall be fyled, shall be received in evidence, but only of the fact that such instrument or copy and statement was received and fyled according to the indorsement of the Clerk thereon and of no other fact; and in all cases the original indorsement by the Clerk made in pursuance of this Act upon such instrument or copy, shall be received in evidence only of the facts stated in such indorsement. 20 25 30

Clerks of the said Courts to number instruments fyled by them, &c.

V. And be it enacted, That the Clerks of the Courts aforesaid shall respectively number every such instrument or copy which shall be fyled in their offices, and shall enter in books, to be provided by them, alphabetically, the names of all the parties to such instruments, with the number indorsed thereon opposite to each name, which entry shall be repeated alphabetically under the name of every party thereto. 35 40

This Act not to apply to mortgage of

VI. And be it enacted, That this Act shall not apply to mortgages of vessels registered

under the provisions of an Act passed in the eighth year of Her Majesty's Reign, and intituled "*An Act to secure the right of property in British Plantation Vessels navigating the inland waters of this Province, and not registered under the Act of the Imperial Parliament of the United Kingdom, passed in the third and fourth years of the Reign of his late Majesty King William the Fourth,*"

5 "intituled, 'An Act for the registering of British vessels,' and to facilitate transfers of the same, and to prevent the fraudulent assignment of any property in such vessels."

vessels registered under 8 vict. c. 5.

VII. And be it enacted, That for services

15 under this Act the Clerks aforesaid shall be entitled to receive the following fees:—For

fyling each instrument and entering the same in a book as aforesaid, ; for 1s.

searching for each paper, ; and the 6d.

20 like fees for copies, as are by law allowed for copies of records kept by them.

Fees allowed to Clerks for registering mortgagea.